

AN ACT

relating to the use of eminent domain authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 11.155, Education Code, is amended to read as follows:

(a) An independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property ~~[for the purpose of securing sites]~~ on which to construct school buildings or for any other public use ~~[purpose]~~ necessary for the district.

SECTION 2. Chapter 2206, Government Code, is amended to read as follows:

CHAPTER 2206. ~~[LIMITATIONS ON USE OF]~~ EMINENT DOMAIN  
SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED  
THROUGH EMINENT DOMAIN

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; ~~[or]~~

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

(4) is not for a public use.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

(A) port authorities;

(B) navigation districts; and

(C) any other conservation or reclamation districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings, hospitals, and parks;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline [~~subject to Chapter 111, Natural Resources Code, and Section B(3)(b), Article 2.01, Texas Business Corporation Act~~]; or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or

1 circumstance.

2       Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section  
3 applies only to an easement acquired by an entity for the purpose of  
4 a pipeline to be used for oil or gas exploration or production  
5 activities.

6       (b) A property owner whose property is acquired through the  
7 use of eminent domain under Chapter 21, Property Code, for the  
8 purpose of creating an easement through that owner's property may  
9 construct streets or roads, including gravel, asphalt, or concrete  
10 streets or roads, at any locations above the easement that the  
11 property owner chooses.

12       (c) The portion of a street or road constructed under this  
13 section that is within the area covered by the easement:

14               (1) must cross the easement at or near 90 degrees; and

15               (2) may not:

16                       (A) exceed 40 feet in width;

17                       (B) cause a violation of any applicable pipeline  
18 regulation; or

19                       (C) interfere with the operation and maintenance  
20 of any pipeline.

21       (d) At least 30 days before the date on which construction  
22 of an asphalt or concrete street or road that will be located wholly  
23 or partly in an area covered by an easement used for a pipeline is  
24 scheduled to begin, the property owner must submit plans for the  
25 proposed construction to the owner of the easement.

26       (e) Notwithstanding the provisions of this section, a  
27 property owner and the owner of the easement may agree to terms

other than those stated in Subsection (c).

SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE

EMINENT DOMAIN PROCEEDINGS

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote

for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; EXPIRATION OF AUTHORITY. (a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter in accordance with Subsection (b).

(d) Not later than March 1, 2013, the comptroller shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate

standing committees of the senate and the house of representatives,  
and the Texas Legislative Council a report that contains:

(1) the name of each entity that submitted a letter in  
accordance with this section; and

(2) a corresponding list of the provisions granting  
eminent domain authority as identified by each entity that  
submitted a letter.

(e) The Texas Legislative Council shall prepare for  
consideration by the 84th Legislature, Regular Session, a  
nonsubstantive revision of the statutes of this state as necessary  
to reflect the state of the law after the expiration of an entity's  
eminent domain authority effective under Subsection (c).

SECTION 3. Subsection (a), Section 251.001, Local  
Government Code, is amended to read as follows:

(a) When the governing body of a municipality considers it  
necessary, the municipality may exercise the right of eminent  
domain for a public use ~~[purpose]~~ to acquire public or private  
property, whether located inside or outside the municipality, for  
any of the following uses ~~[purposes]~~:

(1) the providing, enlarging, or improving of a  
municipally owned city hall; police station; jail or other law  
enforcement detention facility; fire station; library; school or  
other educational facility; academy; auditorium; hospital;  
sanatorium; market house; slaughterhouse; warehouse; elevator;  
railroad terminal; airport; ferry; ferry landing; pier; wharf; dock  
or other shipping facility; loading or unloading facility; alley,  
street, or other roadway; park, playground, or other recreational



1 facility; square; water works system, including reservoirs, other  
2 water supply sources, watersheds, and water storage, drainage,  
3 treatment, distribution, transmission, and emptying facilities;  
4 sewage system including sewage collection, drainage, treatment,  
5 disposal, and emptying facilities; electric or gas power system;  
6 cemetery; and crematory;

7 (2) the determining of riparian rights relative to the  
8 municipal water works;

9 (3) the straightening or improving of the channel of  
10 any stream, branch, or drain;

11 (4) the straightening, widening, or extending of any  
12 alley, street, or other roadway; and

13 (5) ~~[for]~~ any other municipal public use ~~[purpose]~~ the  
14 governing body considers advisable.

15 SECTION 4. Subsection (a), Section 261.001, Local  
16 Government Code, is amended to read as follows:

17 (a) A county may exercise the right of eminent domain to  
18 condemn and acquire land, an easement in land, or a right-of-way if  
19 the acquisition is necessary for the construction of a jail,  
20 courthouse, hospital, or library, or for another public use  
21 ~~[purpose]~~ authorized by law.

22 SECTION 5. Subsection (c), Section 263.201, Local  
23 Government Code, is amended to read as follows:

24 (c) The declaration of taking must contain:

25 (1) a declaration that the land or interest in land  
26 described in the original petition is taken for a public use  
27 ~~[purpose]~~ and for ultimate conveyance to the United States;

(2) a description of the land sufficient for the identification of the land;

(3) a statement of the estate or interest in the land being taken;

(4) a statement of the public use to be made of the land;

(5) a plan showing the land being taken; and

(6) a statement of the amount of damages awarded by the special commissioners, or by the jury on appeal, for the taking of the land.

SECTION 6. Section 273.002, Local Government Code, is amended to read as follows:

Sec. 273.002. CONDEMNATION. Condemnation of property under this chapter shall be in accordance with state law relating to eminent domain, which may be Chapter 21, Property Code, or any other state law governing and relating to the condemnation of land for public use [purposes] by a municipality.

SECTION 7. Section 21.0111, Property Code, is amended to read as follows:

Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED; INITIAL OFFER. (a) An ~~[A governmental]~~ entity with eminent domain authority that wants to acquire real property for a public use shall, by certified mail, return receipt requested, disclose to the property owner at the time an offer to purchase or lease the property is made any and all ~~[existing]~~ appraisal reports produced or acquired by the ~~[governmental]~~ entity relating specifically to the owner's property and prepared in the 10 years preceding the date

1 of the ~~[used in determining the final valuation]~~ offer.

2 (b) A property owner shall disclose to the ~~[acquiring~~  
3 ~~governmental]~~ entity seeking to acquire the property any and all  
4 current and existing appraisal reports produced or acquired by the  
5 property owner relating specifically to the owner's property and  
6 used in determining the owner's opinion of value. Such disclosure  
7 shall take place not later than the earlier of:

8 (1) the 10th day after the date ~~[within 10 days]~~ of  
9 receipt of an appraisal report; or

10 (2) the third business day before the date of a special  
11 commissioner's hearing if an appraisal report is to be used at the  
12 ~~[reports but no later than 10 days prior to the special~~  
13 ~~commissioner's]~~ hearing.

14 (c) An entity seeking to acquire property that the entity is  
15 authorized to obtain through the use of eminent domain may not  
16 include a confidentiality provision in an offer or agreement to  
17 acquire the property. The entity shall inform the owner of the  
18 property that the owner has the right to:

19 (1) discuss any offer or agreement regarding the  
20 entity's acquisition of the property with others; or

21 (2) keep the offer or agreement confidential, unless  
22 the offer or agreement is subject to Chapter 552, Government Code.

23 (d) A subsequent bona fide purchaser for value from the  
24 acquiring ~~[governmental]~~ entity may conclusively presume that the  
25 requirement of this section has been met. This section does not  
26 apply to acquisitions of real property for which an ~~[a~~  
27 ~~governmental]~~ entity does not have eminent domain authority.

SECTION 8. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.0113 to read as follows:

Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity with eminent domain authority that wants to acquire real property for a public use must make a bona fide offer to acquire the property from the property owner voluntarily.

(b) An entity with eminent domain authority has made a bona fide offer if:

(1) an initial offer is made in writing to a property owner;

(2) a final offer is made in writing to the property owner;

(3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;

(4) before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any of the property owner's remaining property;

(5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) a copy of the written appraisal;

(B) a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and

(C) the landowner's bill of rights statement

1 prescribed by Section 21.0112; and

2 (7) the entity provides the property owner with at  
3 least 14 days to respond to the final offer and the property owner  
4 does not agree to the terms of the final offer within that period.

5 SECTION 9. Section 21.012, Property Code, is amended to  
6 read as follows:

7 Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [~~the~~  
8 ~~United States, this state, a political subdivision of this state, a~~  
9 ~~corporation~~] with eminent domain authority[, ~~or an irrigation,~~  
10 ~~water improvement, or water power control district created by law~~]  
11 wants to acquire real property for public use but is unable to agree  
12 with the owner of the property on the amount of damages, the  
13 [~~condemning~~] entity may begin a condemnation proceeding by filing a  
14 petition in the proper court.

15 (b) The petition must:

16 (1) describe the property to be condemned;

17 (2) state with specificity the public use [~~purpose~~]  
18 for which the entity intends to acquire [~~use~~] the property;

19 (3) state the name of the owner of the property if the  
20 owner is known;

21 (4) state that the entity and the property owner are  
22 unable to agree on the damages; [~~and~~]

23 (5) if applicable, state that the entity provided the  
24 property owner with the landowner's bill of rights statement in  
25 accordance with Section 21.0112; and

26 (6) state that the entity made a bona fide offer to  
27 acquire the property from the property owner voluntarily as

1 provided by Section 21.0113.

2 (c) An entity that files a petition under this section must  
3 provide a copy of the petition to the property owner by certified  
4 mail, return receipt requested.

5 SECTION 10. Subsection (a), Section 21.014, Property Code,  
6 is amended to read as follows:

7 (a) The judge of a court in which a condemnation petition is  
8 filed or to which an eminent domain case is assigned shall appoint  
9 three disinterested real property owners [~~freeholders~~] who reside  
10 in the county as special commissioners to assess the damages of the  
11 owner of the property being condemned. The judge appointing the  
12 special commissioners shall give preference to persons agreed on by  
13 the parties. The judge shall provide each party a reasonable period  
14 to strike one of the three commissioners appointed by the judge. If  
15 a person fails to serve as a commissioner or is struck by a party to  
16 the suit, the judge shall [~~may~~] appoint a replacement.

17 SECTION 11. Subsection (a), Section 21.015, Property Code,  
18 is amended to read as follows:

19 (a) The special commissioners in an eminent domain  
20 proceeding shall promptly schedule a hearing for the parties at the  
21 earliest practical time but may not schedule a hearing to assess  
22 damages before the 20th day after the date the special  
23 commissioners were appointed. The special commissioners shall  
24 schedule a hearing for the parties [~~and~~] at a place that is as near  
25 as practical to the property being condemned or at the county seat  
26 of the county in which the proceeding is being held.

27 SECTION 12. Subsection (b), Section 21.016, Property Code,

1 is amended to read as follows:

2 (b) Notice of the hearing must be served on a party not later  
3 than the 20th [~~11th~~] day before the day set for the hearing. A  
4 person competent to testify may serve the notice.

5 SECTION 13. Section 21.023, Property Code, is amended to  
6 read as follows:

7 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF  
8 ACQUISITION. An [~~A governmental~~] entity with eminent domain  
9 authority shall disclose in writing to the property owner, at the  
10 time of acquisition of the property through eminent domain, that:

11 (1) the owner or the owner's heirs, successors, or  
12 assigns may be [~~are~~] entitled to:

13 (A) repurchase the property under Subchapter E  
14 [if the public use for which the property was acquired through  
15 eminent domain is canceled before the 10th anniversary of the date  
16 of acquisition]; or

17 (B) request from the entity certain information  
18 relating to the use of the property and any actual progress made  
19 toward that use; and

20 (2) the repurchase price is the price paid to the owner  
21 by the entity at the time the entity acquired the property through  
22 eminent domain [~~fair market value of the property at the time the~~  
23 ~~public use was canceled~~].

24 SECTION 14. Subchapter B, Chapter 21, Property Code, is  
25 amended by adding Section 21.025 to read as follows:

26 Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

27 (a) Notwithstanding any other law, an entity that is not subject

1 to Chapter 552, Government Code, and is authorized by law to acquire  
2 private property through the use of eminent domain is required to  
3 produce information as provided by this section if the information  
4 is:

5 (1) requested by a person who owns property that is the  
6 subject of a proposed or existing eminent domain proceeding; and

7 (2) related to the taking of the person's private  
8 property by the entity through the use of eminent domain.

9 (b) An entity described by Subsection (a) is required under  
10 this section only to produce information relating to the  
11 condemnation of the specific property owned by the requestor as  
12 described in the request. A request under this section must contain  
13 sufficient details to allow the entity to identify the specific  
14 tract of land in relation to which the information is sought.

15 (c) The entity shall respond to a request in accordance with  
16 the Texas Rules of Civil Procedure as if the request was made in a  
17 matter pending before a state district court.

18 (d) Exceptions to disclosure provided by this chapter and  
19 the Texas Rules of Civil Procedure apply to the disclosure of  
20 information under this section.

21 (e) Jurisdiction to enforce the provisions of this section  
22 resides in:

23 (1) the court in which the condemnation was initiated;  
24 or

25 (2) if the condemnation proceeding has not been  
26 initiated:

27 (A) a court that would have jurisdiction over a



1 proceeding to condemn the requestor's property; or

2 (B) a court with eminent domain jurisdiction in  
3 the county in which the entity has its principal place of business.

4 (f) If the entity refuses to produce information requested  
5 in accordance with this section and the court determines that the  
6 refusal violates this section, the court may award the requestor's  
7 reasonable attorney's fees incurred to compel the production of the  
8 information.

9 SECTION 15. Subsection (d), Section 21.042, Property Code,  
10 is amended to read as follows:

11 (d) In estimating injury or benefit under Subsection (c),  
12 the special commissioners shall consider an injury or benefit that  
13 is peculiar to the property owner and that relates to the property  
14 owner's ownership, use, or enjoyment of the particular parcel of  
15 real property, including a material impairment of direct access on  
16 or off the remaining property that affects the market value of the  
17 remaining property, but they may not consider an injury or benefit  
18 that the property owner experiences in common with the general  
19 community, including circuitry of travel and diversion of traffic.  
20 In this subsection, "direct access" means ingress and egress on or  
21 off a public road, street, or highway at a location where the  
22 remaining property adjoins that road, street, or highway.

23 SECTION 16. Subsections (a) and (b), Section 21.046,  
24 Property Code, are amended to read as follows:

25 (a) A department, agency, instrumentality, or political  
26 subdivision of this state shall ~~may~~ provide a relocation advisory  
27 service for an individual, a family, a business concern, a farming

1 or ranching operation, or a nonprofit organization that ~~[if the~~  
 2 ~~service]~~ is compatible with the Federal Uniform Relocation  
 3 Assistance and Real Property Acquisition Policies Act of 1970  
 4 ~~[Advisory Program]~~, 42 U.S.C.A. 4601 ~~[23 U.S.C.A. 501]~~, et seq.

5 (b) This state or a political subdivision of this state  
 6 shall ~~[may]~~, as a cost of acquiring real property, pay moving  
 7 expenses and rental supplements, make relocation payments, provide  
 8 financial assistance to acquire replacement housing, and  
 9 compensate for expenses incidental to the transfer of the property  
 10 if an individual, a family, the personal property of a business, a  
 11 farming or ranching operation, or a nonprofit organization is  
 12 displaced in connection with the acquisition.

13 SECTION 17. The heading to Section 21.047, Property Code,  
 14 is amended to read as follows:

15 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

16 SECTION 18. Section 21.047, Property Code, is amended by  
 17 adding Subsection (d) to read as follows:

18 (d) If a court hearing a suit under this chapter determines  
 19 that a condemnor did not make a bona fide offer to acquire the  
 20 property from the property owner voluntarily as required by Section  
 21 21.0113, the court shall abate the suit, order the condemnor to make  
 22 a bona fide offer, and order the condemnor to pay:

23 (1) all costs as provided by Subsection (a); and

24 (2) any reasonable attorney's fees and other  
 25 professional fees incurred by the property owner that are directly  
 26 related to the violation.

27 SECTION 19. Subchapter E, Chapter 21, Property Code, is

1 amended to read as follows:

2 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING  
3 [GOVERNMENTAL] ENTITY

4 Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A  
5 person from whom ~~[Except as provided in Subsection (b), this~~  
6 ~~subchapter applies only to]~~ a real property interest is acquired by  
7 an [a governmental] entity through eminent domain for a public use,  
8 or that person's heirs, successors, or assigns, is entitled to  
9 repurchase the property as provided by this subchapter if:

10 (1) the public use for which the property was acquired  
11 through eminent domain is ~~[that was]~~ canceled before the property  
12 is used for that public use;

13 (2) no actual progress is made toward the public use  
14 for which the property was acquired between the date of acquisition  
15 and the 10th anniversary of that date; or

16 (3) the property becomes unnecessary for the public  
17 use for which the property was acquired, or a substantially similar  
18 public use, before the 10th anniversary of the date of acquisition.

19 (b) In this section, "actual progress" means the completion  
20 of two or more of the following actions:

21 (1) the performance of a significant amount of labor  
22 to develop the property or other property acquired for the same  
23 public use project for which the property owner's property was  
24 acquired;

25 (2) the provision of a significant amount of materials  
26 to develop the property or other property acquired for the same  
27 public use project for which the property owner's property was

acquired;

(3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;

(4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(6) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired; or

(7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property ~~[This subchapter does not apply to a right-of-way under the jurisdiction of:~~

~~[(1) a county,~~

~~[(2) a municipality, or~~

~~[(3) the Texas Department of Transportation].~~

(c) A district court may determine all issues in any suit regarding the repurchase of a real property interest acquired

through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED [~~AT TIME OF CANCELLATION OF PUBLIC USE~~]. Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property under Section 21.101 [~~of the cancellation of the public use for which real property was acquired through eminent domain from a property owner under Subchapter B~~], the [~~governmental~~] entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that:

(A) the public use was [~~has been~~] canceled before the property was used for the public use;

(B) no actual progress was made toward the public use; or

(C) the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition; and

(3) a description of the person's right under this subchapter to repurchase the property.

Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED PROPERTY. (a) On or after the 10th anniversary of the date on

1 which real property was acquired by an entity through eminent  
2 domain, a property owner or the owner's heirs, successors, or  
3 assigns may request that the condemning entity make a determination  
4 and provide a statement and other relevant information regarding:

5 (1) whether the public use for which the property was  
6 acquired was canceled before the property was used for the public  
7 use;

8 (2) whether any actual progress was made toward the  
9 public use between the date of acquisition and the 10th anniversary  
10 of that date, including an itemized description of the progress  
11 made, if applicable; and

12 (3) whether the property became unnecessary for the  
13 public use, or a substantially similar public use, before the 10th  
14 anniversary of the date of acquisition.

15 (b) A request under this section must contain sufficient  
16 detail to allow the entity to identify the specific tract of land in  
17 relation to which the information is sought.

18 (c) Not later than the 90th day following the date of  
19 receipt of the request for information, the entity shall send a  
20 written response by certified mail, return receipt requested, to  
21 the requestor.

22 Sec. 21.1022. LIMITATIONS PERIOD FOR REPURCHASE RIGHT.  
23 Notwithstanding Section 21.103, the right to repurchase provided by  
24 this subchapter is extinguished on the first anniversary of the  
25 expiration of the period for an entity to provide notice under  
26 Section 21.102 if the entity:

27 (1) is required to provide notice under Section

1 21.102;

2 (2) makes a good faith effort to locate and provide  
3 notice to each person entitled to notice before the expiration of  
4 the deadline for providing notice under that section; and

5 (3) does not receive a response to any notice provided  
6 under that section in the period for response prescribed by Section  
7 21.103.

8 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later  
9 than the 180th day after the date of the postmark on a ~~[the]~~ notice  
10 sent under Section 21.102 or a response to a request made under  
11 Section 21.1021 that indicates that the property owner, or the  
12 owner's heirs, successors, or assigns, is entitled to repurchase  
13 the property interest in accordance with Section 21.101, the  
14 property owner or the owner's heirs, successors, or assigns must  
15 notify the ~~[governmental]~~ entity of the person's intent to  
16 repurchase the property interest under this subchapter.

17 (b) As soon as practicable after receipt of a notice of  
18 intent to repurchase ~~[the notification]~~ under Subsection (a), the  
19 ~~[governmental]~~ entity shall offer to sell the property interest to  
20 the person for the price paid to the owner by the entity at the time  
21 the entity acquired the property through eminent domain ~~[fair~~  
22 ~~market value of the property at the time the public use was~~  
23 ~~canceled]~~. The person's right to repurchase the property expires  
24 on the 90th day after the date on which the ~~[governmental]~~ entity  
25 makes the offer.

26 SECTION 20. Section 202.021, Transportation Code, is  
27 amended by adding Subsection (j) to read as follows:

(j) The standard for determination of the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that is applied by the commission in the:

(1) acquisition of access rights under Subchapter D, Chapter 203; and

(2) payment of damages in the exercise of the authority, under Subchapter C, Chapter 203, for impairment of highway access to or from real property where the real property adjoins the highway.

SECTION 21. Section 54.209, Water Code, is amended to read as follows:

Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A district may not exercise the power of eminent domain outside the district boundaries to acquire:

(1) a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal plant;

(2) a site for a park, swimming pool, or other recreational facility, as defined by Section 49.462 ~~[except a trail];~~

~~(3) [a site for a trail on real property designated as a homestead as defined by Section 41.002, Property Code, or~~

~~[-4-]] an exclusive easement through a county regional park; or~~

(4) a site or easement for a road project.

SECTION 22. Section 1, Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's



1 Texas Civil Statutes), is amended to read as follows:

2       Sec. 1. Except as provided by this section, and  
3 notwithstanding any other law, any [~~Any~~] nonprofit corporation  
4 incorporated under the laws of this state for purely charitable  
5 purposes and which is directly affiliated or associated with a  
6 medical center having a medical school recognized by the Council on  
7 Medical Education and Hospitals of the American Medical Association  
8 as an integral part of its establishment, and which has for a  
9 purpose of its incorporation the provision or support of medical  
10 facilities or services for the use and benefit of the public, and  
11 which is situated in any county of this state having a population in  
12 excess of six hundred thousand (600,000) inhabitants according to  
13 the most recent Federal Census shall have the power of eminent  
14 domain and condemnation for the purposes set forth in Section 2 and  
15 Section 3 of this Act. A charitable corporation described by this  
16 section may not exercise the power of eminent domain and  
17 condemnation to acquire a detached, single-family residential  
18 property or a multifamily residential property that contains eight  
19 or fewer dwelling units.

20       SECTION 23. (a) Section 552.0037, Government Code, is  
21 repealed.

22       (b) Section 21.024, Property Code, is repealed.

23       SECTION 24. Section 11.155, Education Code, Chapter 2206,  
24 Government Code, Sections 251.001, 261.001, 263.201, and 273.002,  
25 Local Government Code, Chapter 21, Property Code, and Section 1,  
26 Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular  
27 Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), as

1 amended by this Act, apply only to a condemnation proceeding in  
2 which the petition is filed on or after the effective date of this  
3 Act and to any property condemned through the proceeding. A  
4 condemnation proceeding in which the petition is filed before the  
5 effective date of this Act and any property condemned through the  
6 proceeding are governed by the law in effect immediately before  
7 that date, and that law is continued in effect for that purpose.

8       SECTION 25. The change in law made by this Act to Section  
9 202.021, Transportation Code, applies only to a sale or transfer  
10 under that section that occurs on or after the effective date of  
11 this Act. A sale or transfer that occurs before the effective date  
12 of this Act is governed by the law applicable to the sale or  
13 transfer immediately before the effective date of this Act, and  
14 that law is continued in effect for that purpose.

15       SECTION 26. The changes in law made by this Act to Section  
16 54.209, Water Code, apply only to a condemnation proceeding in  
17 which the petition is filed on or after the effective date of this  
18 Act. A condemnation proceeding in which the petition is filed  
19 before the effective date of this Act is governed by the law in  
20 effect on the date the petition was filed, and that law is continued  
21 in effect for that purpose.

22       SECTION 27. This Act takes effect September 1, 2011.

mk  
S.B. No. 18

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 18 passed the Senate on February 9, 2011, by the following vote: Yeas 31, Nays 0; April 19, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; April 28, 2011, House granted request of the Senate; May 6, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Letsey Liu  
Secretary of the Senate

I hereby certify that S.B. No. 18 passed the House, with amendments, on April 14, 2011, by the following vote: Yeas 144, Nays 0, one present not voting; April 28, 2011, House granted request of the Senate for appointment of Conference Committee; May 5, 2011, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 0, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

19 MAY '11  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
5:30 PM O'CLOCK

Wesley K. Burdick  
Secretary of State